

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ FEB 26 2019 ★

JOEL TAVERA, et al.,

Plaintiffs,

v.

HSBC BANK USA, N.A., et al.,

Defendants.

X

BROOKLYN OFFICE

18-cv-07312-LDH-SJB

X

STIPULATION AND [PROPOSED] ORDER

The Stipulating Defendants,¹ through their counsel, and Plaintiffs, through their counsel, hereby stipulate and agree as follows:

WHEREAS a Complaint against certain of the Stipulating Defendants in matter 14 Civ. 06601 (DLI-CLP) (“*Freeman*”) was filed on November 10, 2014;

WHEREAS the *Freeman* Court entered an order staying discovery in *Freeman* on January 16, 2015, *Freeman* ECF No. 37;

WHEREAS the Stipulating Defendants named in the Complaint in *Freeman* filed a motion to dismiss the Complaint in *Freeman* on November 10, 2016, *Freeman* ECF No. 120 (the

¹ The Stipulating Defendants are HSBC Bank USA, N.A.; HSBC Holdings plc; HSBC Bank plc; HSBC Bank Middle East Limited; HSBC North America Holdings, Inc.; Barclays Bank PLC; Barclays Bank PLC, New York Branch; Standard Chartered Bank; Standard Chartered Bank, New York Branch; The Royal Bank of Scotland N.V.; The Royal Bank of Scotland plc; The Royal Bank of Scotland plc, New York Branch; Credit Suisse AG; Credit Suisse AG, New York Branch; BNP Paribas S.A.; BNP Paribas S.A., New York Branch; Deutsche Bank AG; Deutsche Bank AG, New York Branch; Crédit Agricole Corporate & Investment Bank; Crédit Agricole Corporate & Investment Bank, New York Branch; Commerzbank AG; Commerzbank AG, New York Branch.

“Motion to Dismiss”);

WHEREAS the Hon. Cheryl L. Pollak, United States Magistrate Judge, issued a Report and Recommendation on July 27, 2018, *Freeman* ECF No. 165 (the “R&R”) recommending that the Stipulating Defendants’ Motion to Dismiss be denied;

WHEREAS those Stipulating Defendants filed objections to the R&R in *Freeman* on August 31, 2018, *Freeman* ECF No. 174;

WHEREAS Plaintiffs filed a Complaint against the Stipulating Defendants in the above-captioned matter (“*Tavera*”) on December 21, 2018; and

WHEREAS the parties to this action, *Tavera*, having met and conferred, agree in the interest of efficiency and judicial economy to stay the proceedings involving the Stipulating Defendants and Defendant Crédit Agricole S.A. (“CASA”) in *Tavera* until 30 days after the Court rules on the Motion to Dismiss in *Freeman*, and further agree that after the stay is lifted, service on the Stipulating Defendants with judicial process in *Tavera* in the manner provided by Federal Rule of Civil Procedure 4 will not be required. Defendant CASA does not join in the stipulation that service upon it will not be required, and has not waived the international service requirements;

WHEREAS the parties agree that this Stipulation does not include Defendant Bank Saderat, and Plaintiffs have already served Defendant Bank Saderat with judicial process (*Tavera* ECF No. 42) and Plaintiffs shall be permitted to seek entry of default should Defendant Bank Saderat fail to timely respond or otherwise appear in *Tavera*.

IT IS HEREBY STIPULATED BY AND BETWEEN the undersigned counsel as follows:

1. The undersigned parties agree that all proceedings in *Tavera*, including service of the Complaint, related only to Stipulating Defendants and Defendant CASA, should be stayed

until 30 days after the Court rules on the Motion to Dismiss in *Freeman*.

2. The Stipulating Defendants agree that upon termination of the stay, service on the Stipulating Defendants with judicial process in *Tavera* in the manner provided by Federal Rule of Civil Procedure 4 will not be required.

3. The Stipulating Defendants retain all defenses and objections in *Tavera*, except for defenses and objections based on a defect in the summons or in the service of the summons in *Tavera*. The defenses and objections that the Stipulating Defendants hereby retain include, but are not limited to, defenses and objections related to (i) personal jurisdiction and (ii) whether offices that are not separately incorporated juridical entities have been properly named as defendants.

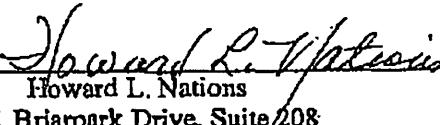
4. Following any ruling on the Motion to Dismiss in *Freeman*, the parties will confer in good faith regarding the most fair and efficient way to proceed in light of such ruling, with all parties' rights in this regard fully reserved.

IT IS FURTHER STIPULATED BY AND BETWEEN the undersigned counsel that except as provided above, nothing in this stipulation shall waive any right or defense of any party, all of which rights and defenses are expressly reserved.

Dated: February 20, 2019

THE NATIONS LAW FIRM

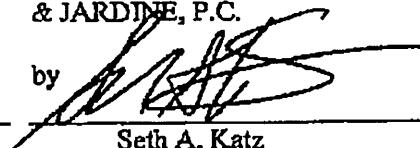
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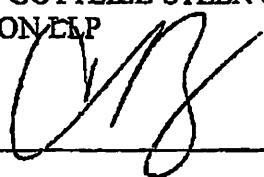
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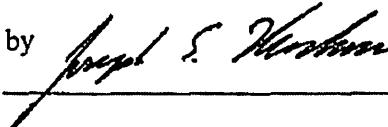
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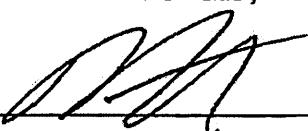
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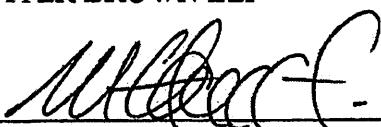
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IT IS SO ORDERED, this 22 day of February, 2019:

s/ LDH

LaShann DeArcy Hall
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